

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**TANIELLE SHURNEY,**

*Plaintiff,*

vs.

No. CA 05-196 Erie  
CIVIL ACTION  
ELECTRONICALLY FILED PLEADING

**SCOTT'S ECONO INN, INC.  
SCOTT'S SPLASH LAGOON, INC.**

**SEAN PIERCE, INDIVIDUALLY AND  
IN  
HIS CAPACITY AS A TROOPER OF  
THE PENNSYLVANIA STATE POLICE**

**JOHN DOE, INDIVIDUALLY AND IN  
HIS CAPACITY AS THE SUPERVISOR  
OF TROOPER SEAN PIERCE OF THE  
PENNSYLVANIA STATE POLICE**

*Defendants*

**CONCISE STATEMENT OF FACTS IN  
SUPPORT OF DEFENDANTS' JOINT  
MOTION FOR SUMMARY  
JUDGMENT**

Filed on behalf of Scott's Splash Lagoon,  
Inc. and Scott's Econo Inn, Inc.

Counsel of Record for these parties:

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**JURY TRIAL DEMANDED**

**CONCISE STATEMENT OF FACTS IN SUPPORT OF  
DEFENDANTS' JOINT MOTION FOR SUMMARY JUDGMENT**

NOW COME the Defendants, Scott's Splash Lagoon, Inc. and Scott's Econo Inn., Inc., by and through their attorneys, and state the following:

1. This lawsuit arises from the fraudulent use of a debit card number to purchase a hotel reservation at Splash Lagoon Resort and Econolodge on Peach Street in Erie, Pennsylvania. Plaintiff Tanielle Shurney denied at her deposition that she made the reservation, or that she knew the reservation was made using a stolen debit card number. Shurney Deposition Transcript, p. 18.

2. It is undisputed that the reservation was purchased in the name of Tanielle Shurney, using a stolen debit card number, and that Tanielle Shurney appeared on July 3, 2004, to claim this reservation. See Defendant's Requests for Admissions; Shurney Deposition Transcript, pp. 18-23.

3. At the time of her arrest, the Plaintiff had in her possession two photo IDs, but one was not her own. Shurney Deposition Transcript, p. 36.

4. Plaintiff did not advise the arresting officer, Codefendant Pennsylvania State Police Trooper Sean Pierce, of her contention that she did not make the reservation and did not know the reservation was made through the use of a stolen debit card number. Shurney Deposition Transcript, pp. 38-41. She claims that she later informed him of this alleged defense during an interrogation, and also informed the district justice of this defense at her preliminary arraignment. *Id.* However, the district justice set bail and committed her to the Erie County Prison. *Id.*

5. Splash Lagoon reservation manager Patty Purchase was deposed, and Ms. Purchase testified that Plaintiff Tanielle Shurney contacted the Splash Lagoon reservation center on June 25, 2004 to place a reservation. Ms. Shurney was informed that she needed a credit card to purchase the reservation. Ms. Shurney informed the reservation center that she did not have a credit card, but would call back. Subsequently, Ms. Shurney placed a second call, spoke with the reservation clerk, and then placed an alleged relative, "Tracey Smith", on the telephone who provided a debit card number.<sup>1</sup> The Splash Lagoon reservation system accepted the debit card number, and charged the holder's account the sum of \$198.17. Patty Purchase Deposition Transcript, pp. 20-28, 37-39.

6. The debit card number used to purchase the reservation was not owned by either Tanielle Shurney or Tracey Smith, but rather was the property of Tonya Traylor. Tonya Traylor is a thirty-three year old African American female with a B.S. degree in accounting from Youngstown State. She has worked as a bookkeeper/accountant for the Salvation Army in Cleveland, Ohio for the past eight years. Ms. Traylor discovered the theft when she reviewed her bank account on line, and found that her account was debited for four unauthorized purchases, including the Splash Lagoon reservation. Tonya Traylor Deposition Transcript, pp. 7-20, 40-47.

7. Ms. Traylor contacted her hometown Streetsboro, Ohio Police Department and filed a criminal complaint. Ms. Traylor reported the unauthorized use of her debit card to Streetsboro, Ohio Police Officer Jon Hurley. Ms. Traylor also contacted Splash Lagoon reservation center

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<sup>1</sup> The Pennsylvania State Police attempted to locate "Tracey Smith", but its investigation

manager Patty Purchase on June 30, 2004, and informed her of the unauthorized reservation. Ms. Traylor told Ms. Purchase that she could expect a second telephone call from Officer Hurley. *Id.*

8. Officer Hurley telephoned Ms. Purchase later that same day. Officer Hurley informed Ms. Purchase that he was conducting a credit card fraud investigation. Officer Hurley asked Ms. Purchase to identify the police jurisdiction in which Splash Lagoon and Econolodge were situated, and informed her that he would contact the Pennsylvania State Police. Officer Hurley also asked that the Econolodge check-in desk clerk notify the state police when Ms. Shurney arrived to claim the reservation. Mrs. Purchase faxed reservation documents to Officer Hurley, per his request. Officer Hurley Deposition Transcript, pp. 9-12, 14, 32-37.

9. The Defendants contend that Tanielle Shurney again telephoned the reservation center on the night of July 2, 2004, to confirm her reservation. Patty Purchase spoke with Ms. Shurney, and told her the reservation was being held. Patty Purchase Deposition Transcript, pp. 24-27. Ms. Shurney denied this telephone conference at her deposition. Shurney Deposition Transcript, pp. 18-19.

10. On July 3, 2004 Tanielle Shurney appeared at the Econolodge to claim her reservation. Ms. Shurney signed the register and provided her driver's license. Shurney Deposition Transcript, pp. 19, 26-27. An Econolodge employee contacted the state police and informed the state police that Ms. Shurney was on the premises.

11. Codefendant Pennsylvania State Police Trooper Sean Pierce came to the Econolodge shortly thereafter and arrested Ms. Shurney in the parking lot of the Econolodge.

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failed to locate her. See Pierce Deposition Transcript, p. 54.

Defendant's Request for Admissions, 10; Pierce Deposition Transcript, pp. 13-14.

12. Plaintiff testified at her deposition that she did not tell Trooper Pierce that the reservation was made by another person, or that she did not know that the other person had used a stolen debit card. Shurney Deposition Transcript, pp. 18-23.

13. At the time of her arrest, Ms. Shurney had in her possession her own photo ID, and the photo ID of another person. *Id.*, p. 36.

14. At the time of Plaintiff's arrest, Trooper Pierce knew of the unauthorized use of theft victim Tonya Traylor's debit card number, that a criminal investigation had commenced with the Streetsboro, Ohio Police Department, that Tanielle Shurney had appeared to claim a reservation in her name and paid for through the use of an unauthorized debit card number, that Ms. Shurney failed to volunteer any defense to the theft charge at the time of her arrest, and that she possessed two photo IDs, only one of which was her own. Pierce Deposition Transcript, pp. 48-58. Trooper Pierce charged Ms. Shurney with two criminal offenses, including theft by deception, 18 Pa.C.S.A. §3922, and access device fraud, 18 Pa.C.S.A. §4106.

15. Trooper Pierce testified that he became aware of the criminal investigation into the debit card fraud as a result of information learned at the Pennsylvania State Police morning roll call. Specifically, Trooper Pierce was told of the Ohio police investigation, and testified that, to his knowledge, the Ohio police department had contacted the Pennsylvania State Police about Tanielle Shurney. Pierce Deposition Transcript, pp. 17-20.

16. After Ms. Shurney's arrest, Trooper Pierce interrogated her at the Lawrence Park State Police barracks. Ms. Shurney was preliminarily arraigned before District Justice Abbate in

North East. District Justice Abbate set bail and committed her to the Erie County Prison.

Defendant's Request for Admissions 11, Shurney Deposition Transcript, pp. 38-41.

17. When Ms. Shurney was committed to Erie County Prison, a personal property inventory revealed no cash on her person, but did reveal that she possessed two photo IDs, although only one was her own photo ID. See Erie County Prison Records Inventory. Subsequently, at her preliminary hearing before District Justice Dwyer, charges were dismissed. No one from Scott's Splash Lagoon or Scott's Econolodge testified at the preliminary hearing. Shurney Deposition Transcript, p. 99.

18. No evidence exists that Econolodge or Splash Lagoon employees requested the arrest prosecution or incarceration of Ms. Shurney. Patty Purchase Deposition Transcript, p. 43; Shurney.

WHEREFORE, Defendants Scott's Splash Lagoon, Inc. and Scott's Econo Inn, Inc. demand judgment in their favor and against Plaintiff with costs, attorneys' fees, and such other relief this Court deems appropriate.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

Filed on behalf of Scott's Splash Lagoon,  
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**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Defendants' Concise Statement of Facts in Support of Joint Motion for Summary Judgment was electronically served upon all counsel of record, this the 30<sup>th</sup> day of March, 2006:

Respectfully submitted,

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